

## REMARKS

Reexamination and reconsideration of the application is respectfully requested in light of the foregoing amendments to the claims and the following remarks.

Claims 37 and 43-59 are pending in this application. Claims 3, 6, 7, 33 and 39-43 have been canceled without prejudice or disclaimer. Claims 1, 2, 4, 5, 8-32, 34-36 and 38 were previously canceled by amendment. Claim 37 stands withdrawn from consideration by the Examiner. New claims 44-59 are presented for examination in light of the decision of the Board of Appeals and Interferences on March 16, 2007. Support for the new claims can be found at page 3, lines 24-28, page 4, line 26 to page 6, line 26, and page 7, line 7 to page 8, line 31, and page 10, line 4 to page 12, line 31 as well as Examples 1 and 10-12.

It is believed that the new claims distinguish over Kellner et al. because (i) Kellner does not disclose using more than 30% w/w of the emollient oil, (ii) it does not teach using less than 5% w/w water and (iii) it does not disclose or suggest effectively softening, smoothing and moisturizing the skin without a greasy after-feel. The specification discloses that the amount of surfactant is critical for achieving a composition that does not leave the greasy after-feel. See page 6, lines 10-14 and page 10, lines 16-20.

As for Barker, the specification at page 3, lines 20-23 states that Barker's composition is unstable, i.e. the sodium chloride separates within an hour after manufacture. The particulate in the composition of the present invention does not separate upon storage. Neither Barker nor Kellner et al. address the separation problem. The range of the ratio of the emollient material to the carboxylic acid salt is critical to providing a stable extrudable paste or cream.

Application No.: 09/964,143


The McAtee reference does not make up for the deficiencies noted above with respect to Kellner et al. and Barker. The reference was only relied upon to show that sodium cocoyl methyl taurate is an anionic surfactant in a cleansing composition. McAtee does not disclose or suggest the cleansing composition as set forth in new claim 44 or the claims dependent thereon.

It is submitted that new claims 44-59 are patentable over the teachings of the prior art relied upon by the Examiner in the final rejection. Accordingly, it is respectfully requested that the proposed amendment after final be entered and favorable reconsideration be given to the claims in light of the preceding amendments and remarks. Allowance of the claims is courteously solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,  
McDERMOTT WILL & EMERY LLP

  
Cameron K. Weiffenbach  
Registration No. 44,488

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 CKW:ckw  
Facsimile: 202.756.8087  
**Date: April 13, 2007**

**Please recognize our Customer No. 20277  
as our correspondence address.**